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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,440	07/18/2003	Theone Luk	P/3987-44	3565
2352	7590	05/28/2004	EXAMINER	
OSTROLENK FABER GERB & SOFFEN 1180 AVENUE OF THE AMERICAS NEW YORK, NY 100368403			HALE, GLORIA M	
		ART UNIT	PAPER NUMBER	
			3765	

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/623,440	LUK, THEONE	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gloria Hale	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-39 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 18 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The use of the trademark LYCRA has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology, spandex.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Oath/Declaration***

It does not identify the citizenship of each inventor.

The disclosure is objected to because of the following informalities: the specification is not in American English such as where "mouldable" should read -- moldable --. On page 2, line 9 "flexible panel (herein after "covering panel" would be better recited as -- flexible covering panel --. The same is true of the "decorative panel".

Appropriate correction is required.

### ***Claim Objections***

Claims 1-39 are objected to because of the following informalities: "Mouldable" should read -- moldable --.. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 17 and 19, line 4, the recitation " a flexible panel herein after "covering panel" is better recited as - - a flexible covering panel- -. In lines 5-6 the second occurrence of "the structure defining component" renders the claim indefinite and confusing since it is not clear as to what is actually described or claimed. In claim 1, lines 6,9 and 10 there is no antecedent basis for "the convex side" In claim 1, line 9 the "panel of flexible material " should be described as a "flexible decorative panel of material" for consistency and clarity. In claim 1, line 13 there is no antecedent basis for "the perimeter" and in line 14 "the concave side". In claim 2, line 2, there is no antecedent basis for "its perimeter" and "the perimeter". In claim 2, line 4 it is not clear as to whether the

perimeter fixing" is the step © of claim 1. In claim 3 , line 2 there is no antecedent basis for "its perimeter" or "the perimeter". In claim 4 there is no antecedent basis for "the perimeter" of the breast cup which is confused with the "perimeter" of the decorative panel or the "said panel assembly". In claim 4, line 4 there is no antecedent basis for "the convex side". In line 6 it is not clear as to whether "said position" is of the reference point of line 4 or as to where the antecedent basis is. In regard to claim 5, line 1 there is no antecedent basis for "the convex side of said panel assembly" only of "the breast cup". Therefore in claim 5 , line 3 it is not clear as to which "said convex side" is being

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claimed. There is also no antecedent as is for "said concave side". In claim 8, line 5 there is no antecedent basis for "the subsequent affixing". Is it the general "affixing" of step ( c ) ?. In claim 10, line 3 there is no antecedent basis for "the convex side". In regard to claim 11, line 2 it is not clear as to what "enhanced compression" encompasses in regard to general "compression". In regard to claim 12 it is not clear as to whether the foam material is the "mouldable material" or whether it is in addition to the "mouldable material. It is also not clear as to whether the "fabric material" is the "covering material" or is in addition to the covering material. It is also not clear as to whether the "sheet of fabric material" is the "at least one sheet of fabric material". In claim 13, line 2 there is no antecedent basis for "the edges" and "the enclosure". In claims 14, line 3 there is no antecedent basis for "the enclosure" and "the perimeter edge". In claim 15, line 33, The perimeter". In claim 17, line 10 and claim 19, line 11, the "flexible material" should read - - flexible decorative panel material - - for clarity as discussed above. Throughout the rest of the claims 17-39 all terms should have the proper antecedent basis such as "the concave" and "the convex" sides, "the perimeter" of the decorative panel, covering panel and the assembly. In claim 22, line 4 the language is not clear in regard to "the said or a stitching". In claim 27, line 5; claim 31, line 5 and claim 36, line 4 the language "herein after "decorative panel" should be changed as in claims 1, 17 and 19 above. Claim 38, line s4 and 10 should be corrected in regard to the "covering panel" and "the decorative panel" and in claim 39, line 4 and 10 the "covering panel" and the "decorative panel". The claims should be reviewed and corrected to be clearly written in proper idiomatic English and in claim language which

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includes the proper antecedent basis for each component term and wherein each term is clearly distinguished from each other. The method step must be clearly defined and written in a precise manner so that they are easily understood.

Claims 1-39 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. None of the cited references, alone or in combination , disclose the breast cup assembly or disclose the method of making a breast cup assembly including the breast cup structure of a flexible moldable material with a covering panel and a decorative panel affixed to each other and wherein a region of the structure is removed to create an opening inwardly of the decorative panel to expose the affixed decorative panel and the concave side of the breast cup structure as claimed in claims 1, 17, 27, 31,36,38 and 39.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria Hale whose telephone number is 703-308-1282. The examiner can normally be reached on Tuesday-Friday.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gloria Hale  
Primary Examiner  
Art Unit 3765

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